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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,091	06/22/2006	Kiminori Mizuuchi	2006_1009A	8951

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EXAMINER

NGUYEN, DUNG T

ART UNIT	PAPER NUMBER
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2828

MAIL DATE	DELIVERY MODE
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03/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/584,091	Applicant(s) MIZUUCHI ET AL.	
	Examiner DUNG T. NGUYEN	Art Unit 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 8-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/20/06 & 10/16, 11/07/2007</u> . | 6) <input type="checkbox"/> Other: ____. |

OFFICE ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by JP01035977.

Claims 1-6, Fig.1 shows a semiconductor laser device including a semiconductor laser element having a ridge type cladding layer 5, on a semiconductor substrate 4,

said semiconductor laser element comprising:

a resonator for performing laser oscillation due to injection of carriers, having different reflectivities at a front facet and a rear facet,

a stripe structure for injecting carriers into the resonator, extending in an axis direction of the resonator, and

an electrode disposed on an upper portion of the stripe structure;

wherein said electrode on the stripe structure is divided into two or more parts 6-1 - 6-5so that plural electrode parts are arranged along the resonator axis direction, and among the plural electrode parts, a current is injected into an electrode part that is positioned in the vicinity of the front facet of the resonator from which laser light is emitted, so as to obtain a larger current density in an active layer 1 of the electrode part as compared with a current density in an electrode part that is positioned in the vicinity of the rear facet of the resonator.

Claim 7, it is understood that a modulated current is applied to the electrodes.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP01035977. JP01035977 disclose all limitations of the claims except for the laser wavelength and vertical mode spectrum width.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to do so, since it is held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCP 1980). Furthermore, the specs. contains no disclosure of either the critical nature of the claimed power range or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in the claim, the applicant must show that the chosen dimensions are critical. In re Woodruff, 919 F.2d, 1575, 1578, 16 USPQ2d, 1936 (Fed. Cir. 1990).

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP01035977. JP01035977 disclose all limitations of the claim except for the laser projector.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to do so, since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed

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apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex Parte Masham, 2 USPQ F.2d 1647 (1987).

Allowable Subject Matter

Claims 8, 11-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-10 and 16-18 are also found objected due to their dependency of above claims.

Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung (Michael) T Nguyen whose telephone number is (571) 272-1949. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Min Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3329.

Michael Dung Nguyen

Primary Examiner

/Dung (Michael) T Nguyen/

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3/19/08